

Department of

Art & Sett.

OFFICE

Board of Revenue

STATION

Madras.

Mr

No. 1281

Dated

11. 6. 23

4.20.14

W.R.
11-6-23

Date

Initial

To whom sent

Given for copying

Copied

Examined

Signed

Given for despatch

Despatched

Indexed

To be destroyed on

W.R.
12.6.23

Pages in the file

(SUBJECT.)

Transfer of Registry. S. Ramasa St. Kodipi St.

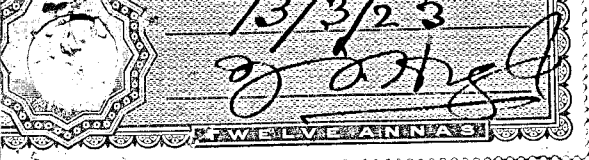
Petition from Kuppas Shettai. Rejected

Back Paper.

Dis.	No.	Department Series.	Date.	Dis.	No.	Department Series.	Date.

Further Papers.

Dis.	No.	Department Series.	Date.	Dis.	No.	Department Series.	Date.



Before the Hon'ble members of the Board of Revenue,

Land Revenue, M A D R A S.



Kudthala Revision Petition No. 23.

Self

Kuppu Shettathi, daughter of ---
Gummi alias Devamma Shettathi, ---
Madavar, Ryot, residing at ---- } Petitioner.
Kuthyar Village, Yellur Magane, }
Udipi Taluk. - - - - - }

a n d

Guddu alias Mechu Shettathi, ---
daughter of Honnu Shettathi, ---
Madavar, Ryot, residing at ---- } Respondent.
Kuthyar Village, Yellur Magane, }
Udipi Taluk. - - - - - }

The Petitioner abovesigned begs to prefer this petition to this Hon'ble Board against the order of the District --- Collector of South Kanara, dated 5-12-22 allowing the appeal filed by the Respondent and setting aside the concurrent --- findings & orders of both the Lower Courts for the following among other grounds:-

(1) The order of the Collector in setting aside the --- concurrent orders of both the Lower Courts is contrary to --- Law, equity & the merits of the case.

(2) The Collector erred in refusing to change the patta registry of S. No. 202/2 of Kuthyar Village on the sole --- objection of the Respondent, who has no sort of claim or ---

The Counterpart
is the daughter
of Honnu Shettathi
and is the Patta
of the said S. No. 202/2
stands in the name of Kusu

right to object to the change of registry in question. The Patta of the said S. No. 202/2 stands in the name of Kusu ---

the land is
owned by Honnu Shettathi and his family

Shettathi, the elder sister of the Respondent who had --
consented to the transfer of Patta as prayed for by the
Petitioner. The Lower Court therefore ought to have --
held that the present Respondent had no right to object
to the change of registry as prayed for.

(3) The Collector has in his order ignored the ----
principle laid down by B.S.O. 31 that the change of ---
registry should in all cases be effected in the name of
the person who is the real owner and who by virtue of --
his title is in actual enjoyment of the land in question.
Both the Tahsildar & the Revenue Divisional Officer have
found that the Petitioner is the real owner & the person
in actual enjoyment of S. Nos. 220/1, 219/1 A, & 202/2 &
that Kusu Shettathi, the elder sister of the Respondent,
is the owner & the person in possession of S. Nos. 220/2,
219/1B, & 202/1 & 3 as per partition deed between them -
effected in 1914 though the registry of S. Nos. 220/2, -
219/1B & 202/1 & 3 stood in the name of the Petitioner.
It was on this ground of ownership and possession by --
her of the 1st set of properties that the Petitioner ---
applied for its change in her name, and relinquished the
patta of the 2nd set of properties to the name of Kusu -
Shettathi and that the same was consented to by the said
Kusu Shettathi on the very same grounds. The change of
the registry effected by the Tahsildar and the Divisional
Officer was in fact a mutual and voluntary exchange of -
pattas between the Petitioner & the Respondent in a way
as to tally with ownership & enjoyment as evidenced by -
the partition deed in 1904. The Collector has erred in
setting aside the registry of S. No. 202/2 alone without

*The objection
before the Court
was only to the
registry of 202/2
in the name of the Petitioner*

adverting to any of these facts, which guided the Tahsildar & the Divisional Officer.

(4) The Collector has erred in entertaining the said revision against the concurrent and considered orders of - both the Lower Courts.

(5) The Collector erred in assuming that the Petitioner Kuppu Shettathi had admitted in the statement given by her in D.R. No. 65/1323 that Honnu Shettathi, the mother of - the Respondent was in possession of S. Nos. 202/B.K.W (--- corresponding to S. No. 216/1, 219/1 & 202). This assumption made by the Collector is contrary to the facts and is not supported by the records. In the said statement, the Petitioner only stated that she is in enjoyment of S. No. 202/L & M (corresponding to S. No. 220) and never admitted - the possession of S. Nos. 202/B.K.W by Honnu Shettathi. From this incorrect idea of the statement the Collector has drawn an unwarranted conclusion that since the partition - of 1904 adverted to by him in his order the parties must - have made some arrangement about enjoyment contrary to the terms of the partition deed in writing registered.

(6) The Collector ought not to have "presumed that -- subsequent to the partition of 1904 they must have made -- some arrangement between themselves in regard to the enjoyment of the lands". The case of any such oral arrangement contrary to the terms of a registered partition deed was -- never set up by any of the parties either now or at any -- time before and the statement relied upon by the Collector as warranting such an inference does not contain even a -- syllable of the oral arrangement. The said presumed oral

arrangement subsequent to the partition was merely an -- -
imaginary one set up for the first time in the order of --
the Collector. Such an arrangement never took-place -----
and even if true any such oral arrangement is not valid, --
as no evidence is inadmissible of an oral agreement varying
the terms of a registered document.

(7) The Collector is absolutely in the wrong in ----
holding that the alleged verbal statement in 1913 in D.R.
65/1323 is entitled to more weight than the registered ----
partition deed effected between the parties in 1904. The
partition deed of 1904 was effected between the Petitioner
& Honnu Shetathi the mother of the Respondent and the ----
Respondent herself was a party thereto as a member of her -
branch. It was under the partition deed that the Petitioner
became entitled to the properties whose registry she seeks
to be changed into her name and ever since then those ----
properties have been in her exclusive enjoyment.

(8) The order of the assignment in D.R. No. 65/1323 is
no bar to the change of registry prayed for.

(9) The Petitioner, being an illiterate woman with no
knowledge of survey & subdivisions, might have fallen into
an error in mentioning the sub-divisions in the statement
filed by her in D.R. No. 65/1323 the system of statements
being recorded by the Village Karam and illiterate women
being made to sign then with little or no knowledge of its
contents and with absolutely no means at their command of
identifying the survey sub-divisions, with the plots in ---
their actual enjoyment is well-known to work a lot of hard-
-ship and the Petitioner has been unjustly made by the ---
Collector to suffer for any such mistake, especially so, --

when the person in whose name the patta stood before the --
Petitioner applied for change of registry had no objection
to the change of the registry.

(10) As per the order of the Tahsildar in this very --
proceedings, the patta of S. Nos. 220/1, 219/1A & 202/2 has
already been changed to the name of the Petitioner and the
Petitioner has in consideration therefor agreed to the ---
change of registry of S. No 220/2, 219/1B & 202/1 & 3 to the
name of Kusu Shettathi. The order of the Collector setting
aside the change of registry with regard to S. No. 202/2 &
ordering the same to be continued in the name of Kusu Sheddhi
is a serious prejudice and loss to the Petitioner. The --
effect of the Collector's order now is that the Petitioner
is entitled to patta of S. No. 220/1B & 219/1A only, whereas
the Respondent becomes entitled to the patta of S. Nos. ---
220/2, 219/1B, 202/1 & 3 & 202/2. The change of patta ---
which was originally meant as a mutual exchange of 3 sub-
divisions between Kusu Shettathi & the Petitioner has now
ended in giving the Petitioner only 2 sub-divisions, whereas
Kusu Shettathi gets 4 sub-divisions. The Collector holding
the view which he held, viz., that the order of the Tahsildar
and the Divisional Officer is wrong, ought to have set aside
the order in toto and erred in altering it only in part.

(11) The fact that the Collector agreed with the change
of registry of the other S. Nos. 220/1, 219/1A, 220/2, 219/1B
& 202/1 & 3 is a very strong ground for holding that the --
order of the Collector with regard to the registry of S. No.
202/2 alone is wrong because the registry of all three sub-
divisions was ordered by the Tahsildar and the Divisional
Officer on the very identical grounds.

(12) For all these ground the Petitioner, prays that this Hon'ble Board may be pleased to set aside the order of the Collector of South Kanara passed in the above proceeding and restore the concurrent orders of the Tahsildar & the Divisional Officer and direct the registry of S. Nos. 220/1, 219/1A & 202/2 of Kuthyar Village, Udipi Taluk, --- South Kanara District, to the name of the Petitioner.

Udipi, S. Kanara. }

Dated. 13th March 23 }

/// ಎಂ. ಎಂ. ರುಣಿಶಿ ಕುಮಾರ್ ಸ್ವಾಮಿ

I, the Petitioner abovesigned, do hereby declare that the facts stated above are true to my knowledge.

Dated. 13/3/23.

/// ಎಂ. ಎಂ. ರುಣಿಶಿ ಕುಮಾರ್ ಸ್ವಾಮಿ

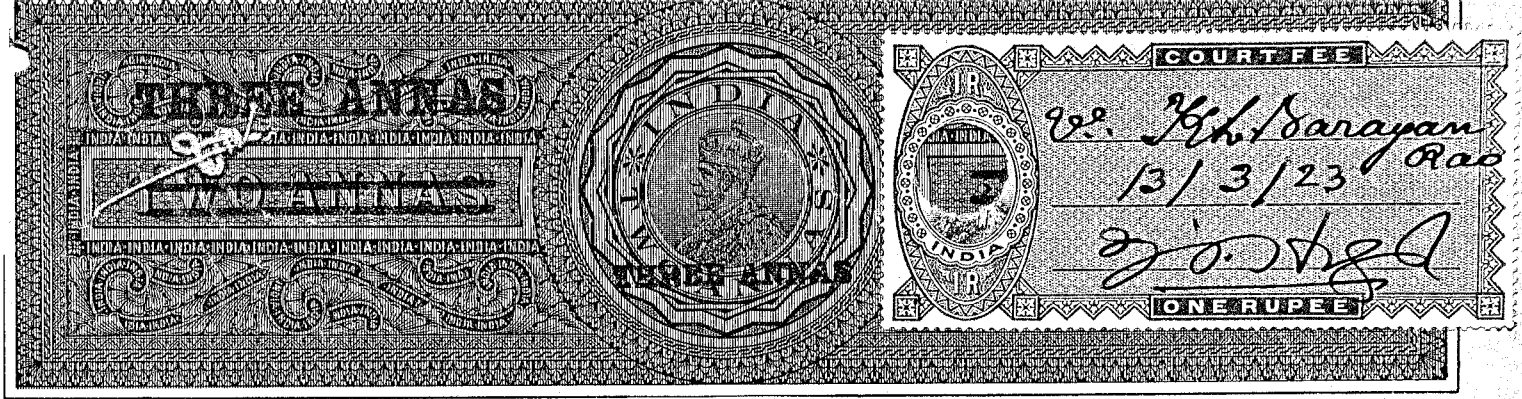
E n c l o s u r e s.

1. Order of the Collector of South Kanara. 5-12-22.

2. -do- of the Divisional Officer)
of Coondapur. - - - - -) 3-4-23.

3. -do- of the Tahsildar of ----)
Udipi Taluk. - - - - -) 26-5-21.

Dated. 13/3/23.



D. Dis 4871-22-VI.

Proceedings of the Collector of S. Kanara

Dated 5th December 1922

M. R. Ry. Rao Bahadur S. N. V. Rajachar A.L. B. A.

Read petition dated 2.8.1922 from Guddu alias Mechu Shedthi daughter of Honnu Shedthi residing in Kuthyar Village, Udipi Taluk.

Read Coondapoor D. O's N. Dis. C. C. 907/Rev 22 dated 7.10.22 and all the connected records.

Heard Vakils Mr M. Keshava Poi for the petitioner and Mr K. J. Ballal for the Counter petitioner.

Transfer of registry - Udipi Taluk - K. R. No 61
30
(Revision petition) Kuthyar Village S. No 202 - Revision
2
petition - Guddu alias Mechu Shedthi - Orders
passed:-

This is a petition to set aside the order of the Tahsildar and the Divisional officer directing the registry of S. No 202 (corresponding to old 202) of Kuthyar Village in the name of the Counter petitioner Kuppu Shedthi. Honnu Shedthi and Kuppu Shedthi are divided sisters and their properties were divided

7788

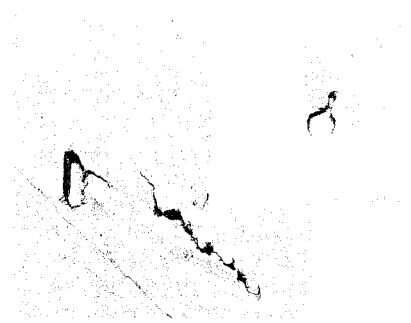
u A.P.O.

11/12/2

of J. H. A.



12





between them in 1904 as per partition deed dated 7. 6. 1904. The whole of plot S. N^o 202 measuring 5.63 acres formed the subject of darkhash proceedings in D. R. N^o 65¹³²³ in which both the sisters were examined and they gave statements dated 4. 8. 13. They referred to the above partition deed and stated that as they had divided their properties and were living separately the lands applied for by them should be assigned to them separately. Honnu Shedthi then stated that she was in enjoyment of S. N^o 202 (corresponding to S. N^o 216, 219 and 202) which her sister Kuppu Shedthi admitted she was in enjoyment of S. N^o 202 (corresponding to S. N^o 220). Accordingly the above Survey fields²⁺³ were assigned to them according to their statements.

In 1917 Honnu Shedthi died and after her death, the counter petitioner applied to the Tahsildar of Udupi to transfer the lands in her name as per partition deed of 1904 and the Tahsildar setting aside the assignment made in D. R. 65¹³²³, ordered the registry of patta for S. N^o 220, 219 and 202 (in partition) in the name of

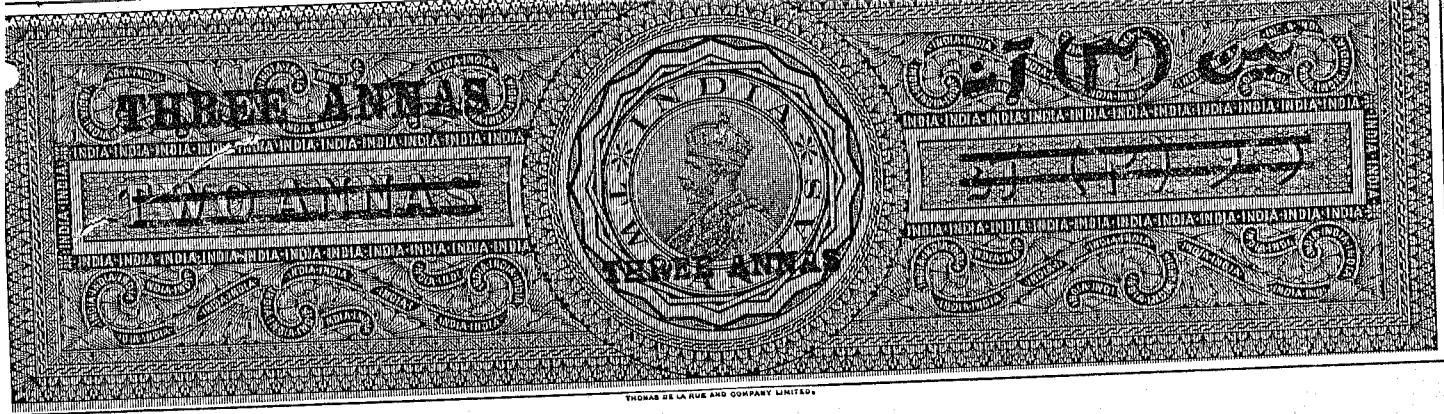
7789

W. A. R. P. M.

11/12

W. A. R. P. M.

14



the Counter petitioner and S. N^o $\frac{220}{2}$, $\frac{219}{13}$ and $\frac{202}{1.5}$ in that of the petitioner. The Divisional officer confirmed the Tahsildar's order.

The partition deed of 1904 was before the parties and the Tahsildar when the assignment was made in 1913 and the parties themselves having given a statement what number they were actually then in possession of it should be presumed that subsequent to the partition of 1904 they must have made some arrangement between themselves in regard to the enjoyment of the lands. I will not attach any weight to the partition deed in preference to their statements. Moreover there was no appeal against the order of assignment in N^o $\frac{65}{1323}$. Holding this view I must say that the order of the Tahsildar and the Divisional officer is wrong. S. N^o $\frac{202}{2}$ will be registered in the name of the petitioner.

(Signed) S. N. V. Rajaachar

Collector

5.12.22

Errata (3) Three only

154
Compd by

[Signature]

Total words

265

532

7790

W. S. D. W.

11/12/22

of 2.88

16

Total words 522

Copied by HP

Applications No. $\frac{683}{22}$ } on 14-12-22
copy received

Witness papers called for " " "

Witness papers produced " 14-12-22

Copy ready " 10-1-23

Copy delivered or sent by } 1-1-23

sent to Mr. K. J. Ballal

Vakil

Complied by HP

(True copy on three sh)

Collector



N
AS (left.)
~~AA.~~

Transfer of registry - S. Kanara &
Remini Behari from Kuppas Shettar
Kuttappa Bellag. Adipi Taluk.

" " ————— , " ————— 191

READ ALSO :-

Register No. 843, From the Petitioner, No. _____, dated 13-3-1923 A
in original.

Remitted on
1-5-23
02

ference
~~RESOLUTION.~~

Q No. 843/23-1 dated 20. 3. 1923

Note,
No regular appeal lies to the Board in
the matter of transfer of registry but
this may perhaps be admitted as a
revisiting petition.

For a day if this ~~not by accident~~
at least as a reminder. Then
has been already one reminder
before the end
20324

Referred to the Col^r. of
S. Kanara for early report
with the necessary records. The

CSB
20.3.23

In case of the person who is now
in actual possession and
possession of - $\frac{202}{2}$ should
be reported.

Use ✓
2022

total
rate
213.22

The Coll^r of S. Kanara with a
pet^r. enclosures in orig. blue
returned.

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248,026-4-4-21.

C.F. 20.

118
19
Department

Land Revenue & Settlement

OFFICE OF

Board of Revenue

STATION

Madras.

Reminder No. 1

Dated

1. 5. 1923

THE undersigned requests that an early reply may be sent to the communication noted below.

CS. Ref. No. 9843/23-1 Date. 20.3.23 Subject. Transfer of Registry.

Tidupi Taluk. Kuppam Shettar's
Revision petition. Report.

Signature and Designation.

Per Secretary

1.5.23

AS/Genl

This may be filed with
the 1295 Rep. G. 8/23/23. 8/15/23
11

18
Remd again
on 25/5/23
as 25/5/23

2
C. 8/23
9/5/23

Collector of South Korea

S. CANARA COLLEGE OFFICE

No. Submitted in receipt of
Kendapur Dist officer's
report.

Recommended. The
report will be

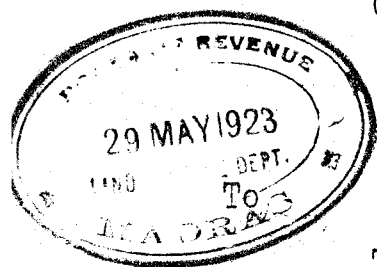
M. K. S. College

2
3
12/5-23

5-23

4.1731
From

G. W. Wells, Esq., M.A., I.C.S.,
Ag. Collector of South Kanara.



The Secretary to the Board,
Land Revenue and Settlement,
M a d r a s.

Sir,

Reference.

Transfer of registry - Udipi Taluk - Kuthyar
village - Revision petition to the Board - Kuppu Shedthi
Board's reference thereon No.G.843-23-1, dated 20.3.1923.

The plot concerned in the revision petition is ---
S.No.202/2 measuring 2.72 acres, the records connected ---

-
1. Records of D.R.65/1323.
 2. Records of K.R.61/1330.
 3. Coondapoor Divisional Officer's
Dis.No.143 D/Rev/22.
 4. This office D.Dis.No.4871-22-V.1,
dated 5.12.1922.
-

with which are --
submitted as per
details noted in
the margin. The
facts of the case
are fully set ---
forth in my pre-

decessor's order D.Dis.No.4871-22-V.1, dated 5th December
1922 objected to by the petitioner and need not be -----
recapitulated here.

2. As regards the question who is in actual -----
possession and enjoyment of the plot, the Revenue -----
Inspector reports in connection with the present revision
petition that there are no distinct marks on the ground -
to distinguish plots S.Nos. 202 from one another with --
1.2.3

the exception of a few "Kalli" plants lying scattered near the boundary line dividing S.Nos. 202² & 203³ and that his - local enquiry and the statements taken down by him from - the adjoining pattadars shew that the eastern and western portions of S.No. 202 viz. 202^{1 & 3} are at present enjoyed by the counter-petitioner and the middle portion viz. 202² by the petitioner.

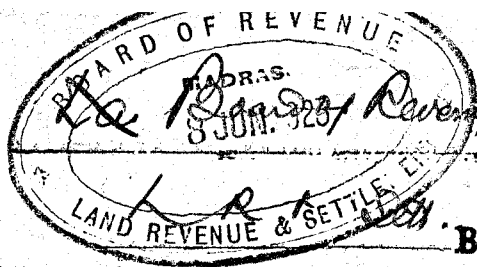
P. M. Ambani

For Ag. Collector.

M.S.R./25-5.

17/5
26.5.23.

26.5.23 26/5



Department.

Branch.

REMINDER.

REPLY.

To

The Collector
of South Kanara

The undersigned has the honour to invite
is directed to invite
invites

attention to the communication noted in the

No. 9843, dated 20.3.23 margin and to
23-1 request that

123-1 request that
this reminder may be returned as early as possible ~~at once~~ with
information as to—

- (1) the stage at which the matter now is,
- (2) the date by which a reply may be expected and
- (3) the circumstances which have caused the delay.

2. It is requested that the reply to this reminder may be sent not later than ^{5th June, 23} *Friday, 5th June, 23*

Office Board of Revenue
Station R.R. Sect
Dated Madras
28. 5. 23

Richard
Signature.
For Secretary.
Designation.

SUBJEO

Examples of Registry. Revision
petition from Kuppil Shettathi
Kuthayana village. Udipi Ek.
Report.

To

THE Secretary to the Board of
P. R. & S. L. Co. ^{Revenue} Measures

The reference in question
was replied to in the
office Ref C 1987-23-4,
dated 22.5.423 &
patched on 26.5.423.

Смирнов
2/6/25
Смирнов

28.5.23 $\frac{b}{28.5.23}$

$$N_{AS}(A)$$

Transfer of Registry. S. Kanara Dt.
Nidipi Lk. Petition from Kuppur Sheth
ejected.

READ AGAIN B.P., No. _____ dated _____ 191_____

191

READ ALSO :—

Register No. 843, From the Pekihones, No. _____, dated 13. 3. 1923
to his

G " " 1731 " " Cour. of S. Kanara. " " " 22-5- 1928
to Cour. H.B. to
Pet.

191

RESOLUTION. *mis* No. 1281, dated 11-6 1923
 787

The petition is rejected.

Issue
by
46 23

Cell
9.6.23
Q
96ms

from orders)
Use
11.6-2B

The Petitioners.

2 Encloures since retained Letic address furnished on p1 Cf.
Ref: under Encl. 9-2367/23 of 18. 9-23 - Copy of Encl. not RBB's own

Coll^y of S. Kanara with records ^(x)
returned - when sent by reg post.

(X) (1) ~~FR~~ Records of FR 65/1823

(3) KR 64 1330

OFFICE NOTE.

M,
A S (Sett)

Subject.

Transfer of Registry, S. Kanara Sh.
Tudipi Taluk. Revision petition. S. n. 202/2

FROM

Kuppu Shettathi.

Var. S. Kanara

Register Nos. 843/23 & 1731/23

To

As (Sett)

Please see the revision petition
from Kuppu Shettathi regarding the registry
of S. n. 202/2.

The facts of the case will be found
in the Collr's orders on pages 11 to 16 of. The
orders of the Tahsildar and the R. D. Concave
followed the terms of the partition deed of
1904 and the actual possession and enjoyment
of the land in question. But the Collr.

Considering
~~the~~ the statement filed by the
parties concerned at the time of the assignment
of the land in question on 8th August in 1913
to be more important than the partition
deed of 1904 ordered the Cancellation of the
Tahsildar's & R. D.'s orders. The petition
contends that in the statement given by

her in 1913 she never admitted that Honam
she & the (the mother of the Buntarpet line?) was in
^{possession}
enjoyment of S.N. 202 ^{B.E. 1911} but only stated
that she was in possession of S.N. 202
L + M corresponding to S.N. 220. She also adds
that she being illiterate without any knowledge
of Survey and Subdivisions might have
erred in mentioning the ^{exact no. of the} Subdivisions she
was actually in possession of and such a mistake
should not be taken advantage of. It appears
from the Coll's letter that the petitioner is
even now in actual possession and enjoyment
of the land in question.

In taluk Darkast order of 31-12-13 in
Case No 65 of fasli 1323, old S.N. 202-L (3.18 ams)
^{old} + 202-M (5.20 ams) in all 8.38 ams have been
assigned to the appellant [&] old 202-B (0.42 ams)
K (4.28 ams) + N (5.40 ams) in all 10.10 ams to the
respondents.

The Collector in following the above darkast order
proceedings has ordered that the whole of the present
S.N. 202 (corresponding to the old 202-N) should
go to the respondents without considering the
fact that the above darkast order affects the
MS also. If the Darkast ^{order} is given full effect
the appellant is entitled to old 202 L + M
corresponding to the whole of new S.N. 220 (8.47 ams)
but the Coll's present order gives her only
5.53 ams. { 220-1 (5.36 ams) + 219-1 (0.17 ^{ams}) }

13 of

the Coll. has admitted
the present S.N. 202
but not at present
in an actual possession

14 of

M 20121 of
please see the Coll's
report at (3)

(10)

617 of

566 of

Against 8-38 and to the darkest extent.
The appellant seems therefore to have a real
grievance. It is also reported that the order
of the tahs & D. Officer agrees with the actual
enjoyment on the ground.

For ams.

Q
6.6.23 The revenue officers are not to
decide rights to lands. It they
have to decide from whom the land
revenue has to be collected. The
Registry should therefore follow
enjoyment otherwise than by mortgage
or lease. The Collector's (Mr. Rajan) order
does not satisfy the condition.

Under Rule X.V. (4) page 620 of B.S.O.

This fact should have been remem-
bered before the
refers at P. 17 C.A.
tree
6.6.23

When Col^d was made. The petition must be
rejected

Mr.
2.6.23.

AS^d Sett^d

Draft submitted below.

Call.
9.6.23
9/6/23

Call
11.6.23